

Plaintiffs Honourable Clair M. Poulsen and Derek Dalton, by and through counsel, hereby respond to Defendant Edson Gardner's "Motion for Temporary Restraining Order and Order to Show Cause in Opposition to Plaintiffs", which was filed with the Court on September 19, 2012. (Doc. 96 and Doc. 97).

Although Defendant Gardner's brief is difficult to understand, it appears that his most recent filings are in fact reply memorandums in support of his original Motion for Preliminary Injunction and Temporary Restraining Order, filed on September 5, 2012. (Doc. 66). Plaintiffs responded to this *Motion* in a *Memorandum* opposing the *Motion for Preliminary Injunction and Temporary Restraining Order*. (Doc. 84). In fact, Defendant Gardner states that his current filing is "as opposition to Plaintiffs' Memorandum dated September 17, 2012." (Doc. 96 p. 2). Consequently, it appears that the recent filings are actually Defendant Gardner's reply memorandums.

However, in the event that Defendant Gardner has brought a new Motion for Temporary Restraining Order and/or Order to Show Cause, Plaintiffs oppose such motions and incorporate by reference their September 17, 2012 *Memorandum in Opposition to Defendant Gardner's Motion for Temporary Restraining Order*. (Doc. 84). The legal and factual issues and claims are the same in the two

Motions, and Gardner has not met the stringent standard required for an order of injunctive relief. As such, Gardner's requests for injunctive relief should be denied.

DATED this 5th day of October, 2012.

SUITTER AXLAND, PLLC

s/ Noah M. Hoagland

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/s/ Marea Doherty

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of October, 2012, I electronically filed the foregoing document with the U.S. District Court for the District of Utah. Notice will automatically be electronically mailed to the following individual(s) who are registered with the U.S. District Court CM/ECF System:

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In addition, I hereby certify that I also caused a copy of the foregoing to be served upon the following, via U. S. mail, postage prepaid, on this 5th day of October, 2012:

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